



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/128,244	08/03/1998	LAWRENCE J. ELLISON	233/038	2416

7590

09/25/2003

DEREK J WESTBERG
LAW OFFICES OF DEREK J WESTBERG
TWO NORTH SECOND STREET SUITE 1390
SAN JOSE, CA 95113

EXAMINER

DINH, DUNG C

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/128,244

Applicant(s)

ELLISON ET AL.

Examiner

Dung Dinh

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29 and 80-159 is/are pending in the application.
- 4a) Of the above claim(s) 80-159 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2153

DETAILED ACTION

Original claim 29 is pending. Claims 30-79 are canceled and new claims 80-159 are added in amendment filed 7/7/2003 (paper #19).

Claim Restriction

Newly submitted claims 80-159 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The original claim 29 is directed to a method for sending video stream having video information from a first source and improved quality video information from a second source.

New claims 80-159 are directed to a method and system for manipulating digital video to generate tag data representing frame position and other frame related data.

The inventions of claim 29 and that of claims 80-159 are separate and independent inventions because the invention of claim 29 does not require the particular of the invention of claims 80-159 to function and vice versa.

Since applicant has received an action on the merits for the originally presented invention claim 29, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 80-159 are

Art Unit: 2153

withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 29 is rejected under 35 U.S.C. 102(e) as being anticipated by Ramasubramanian et al. US patent 6,172,672.

Regarding claim 29, Ramasubramanian discloses a system for sending improved quality video data to a client, comprising the steps of: sending a video stream to said client in accordance with a set of streaming constraints, said video stream comprising at least a subset of video information from a first source (fig.1B, element 134); receiving a signal indicating a relaxation of said streaming constraints (col.6 line 25 - col.7 line 12); in response to said signal, accessing a set of improved quality video from a second source (fig.1B, element

Art Unit: 2153

140), said improved quality video information comprising an improved quality version of at least a subset of the video information in said video stream, wherein said improved quality video information includes a plurality of still images (a video stream is composed of frames, each frame being a single still image, also see col.8 lines 29-34 - the process described can be repeated to provide multiple copies of an image in the JPEG, PCX, BMP, TIFF, etc. formats); and sending said set of improved quality video information to said client (col.6 line 25 - col.7 line 12).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (703) 305-9655. The examiner can normally be reached on Monday-Thursday from 7:00 AM - 4:30 PM. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (703) 305-4792.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group 2100 Customer Service whose telephone number is (703) 306-5631.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, DC 20231

or faxed to:

(703) 746-7239, (for formal communications intended for entry)